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RETIREMENT BENEFITS FOR QUALIFIED FORMER SPOUSES

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The purpose of this Notice is to inform you that if you were divorced after 15 November 1982 or become divorced in the future, your former spouse may be eligible, if qualified, for a portion of your retirement benefits. For the purpose of these benefits, a "former spouse" is defined by law as a former wife or husband of an employee or former employee who was married to that employee for not less than 10 years during periods of service by that employee which were creditable towards retirement, at least five years of which were spent outside the United States by both the employee and the former spouse.

This benefit allows qualified former spouses of employees of the Organization who were divorced from the employee after 15 November 1982 to share in the retirement annuity and survivor benefits or lump-sum disbursements paid from retirement funds. Unless otherwise expressly provided by any qualifying spousal agreement or court order, such former spouses are entitled to a share in the employee's lifetime pension equal to 50 percent of the employee's annuity, if married to the employee throughout his/her entire creditable service. If married to the employee for less than the entire period of creditable service, the former spouse is entitled to a proportionate share of 50 percent of such annuity based on the length of the marriage to the employee during periods of creditable service compared to the total creditable service. For example, if you worked for the Federal government for 30 years, and you were married to your former spouse for 20 of those 30 years, he/she would be entitled to two-thirds of 50 percent of your lifetime pension.

In addition, the former spouse shall, in the absence of a contrary court order or spousal agreement, be entitled to a survivor annuity equal to 55 percent of the employee's annuity if married to the employee throughout his/her entire creditable service. If married to the employee for less than the entire period of the latter's creditable service, the former spouse shall be entitled to a proportionate share of 55 percent of the full annuity based on the length of the marriage to the employee during periods of creditable service compared to the total creditable service. For example, if you worked for the Federal government for 30 years, and you were married to your former spouse for 20 of those 30 years, he/she would be entitled to two-thirds of 55 percent of your full annuity.

Please note that a former spouse shall not be qualified for any annuity if he or she remarries before becoming 60 years of age. However, if, after the annuitant's death, the survivor annuity is terminated because of remarriage, it may be restored at the same rate if the remarriage is dissolved.

A former spouse's rights to receive these benefits depends on the employee's meeting all the qualifications for retirement, including age and service and approval by the Director, if necessary.

Should the employee die prior to retirement, a former spouse would have no entitlement under the former spouse legislation.

Determination of a former spouse's eligibility for benefits may result in the employee or former spouse being requested to provide us with information concerning his/her five years of residence outside the United States, as well as verification of the dates of marriage and divorce.

The law states that it is mandatory for this Organization to provide annual notification to both employees and their spouses with respect to rights under the law. This notification is to be provided by employees to their spouses for signature and then returned to the component administrative or personnel officer. Failure to comply with the request is in violation of the law and subject to administrative sanction.

I, \_\_\_\_\_, Spouse of \_\_\_\_\_  
have read and acknowledge this notice concerning benefits for qualified former spouses.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

RIGHTS OF SPOUSES AND FORMER SPOUSES

There are some facts in the retirement law which affect the rights of spouses and former spouses of employees and annuitants in the CIA Retirement and Disability System (CIARDS), as well as some CIA employees in the Civil Service Retirement System. The following questions and answers are designed to help explain some of these facts:

WHICH AGENCY EMPLOYEES ARE AFFECTED

Question 1. I recently received a notice entitled "Retirement Benefits for Qualified Former Spouses." Do I have to sign the notice?

Answer: No Agency employee need sign this notice, except as explained in Question 2.

Question 2. Who should sign the notice?

Answer: If you are married AND you are in CIARDS or if you are under Civil Service and have served with the Agency outside the United States for five years, your current spouse should sign the notice. If your spouse does not sign, you should return the notice with your certification that your spouse has been shown the notice. This is to comply with the requirement in the law that affected spouses be informed of their rights.

Question 3. I am a CIARDS participant. Could this law affect me?

Answer: Yes, if you have been married.

Question 4. I am not in CIARDS but am covered by the Civil Service Retirement System. Will I be affected?

Answer: Only if you have had five years of overseas service and, therefore, would be qualified to join CIARDS.

LUMP-SUM PAYMENTS

Question 5. If I leave the Agency and wish to withdraw my retirement contribution, do I have to consult with my current spouse?

Answer: If you have served overseas for five years with the Agency, or if you are in CIARDS, you cannot withdraw your lump-sum retirement contribution unless your current spouse agrees in writing. If your spouse does not consent, your contributions remain in the retirement fund and you will be entitled to a deferred annuity at age 62. In that way, the law assures that your qualified former spouse or current spouse will receive a survivor annuity.

Question 6. If I leave the Agency and wish to withdraw my retirement contribution, do I have to consult with my former spouse?

Answer: Before answering this question, we must make clear how the law defines former spouse because not every ex-spouse qualifies as a former spouse. An individual qualifies as a former spouse if:

- 1) The individual was married to an Agency employee for 10 years;
- 2) During those 10 years, the employee was performing service creditable for retirement purposes;
- 3) Both the employee and the spouse have spent five of those 10 years outside the United States; and
- 4) The divorce occurred after 15 November 1982.

Whenever we say former spouse we mean someone who meets all the four criteria listed above.

If you have a former spouse, he or she need not be consulted before you withdraw your lump-sum contribution, but your former spouse is entitled to receive a proportional share of that lump-sum payment unless a court order or spousal agreement expressly provides otherwise. If your former spouse was married to you during the entire period of your Federal service, he or she would receive half of the lump-sum payment.

If the marriage lasted for only part of your period of Federal service, he or she would receive proportionately less. For instance, if you had 15 years Federal service and were married for 10 of those years, your former spouse would only receive 2/3 of 50 percent of the lump-sum payment.

SURVIVOR ANNUITY

Question 7. If I retire from the Agency under CIARDS, do I have to provide a survivor annuity for my current spouse?

Answer: Yes. It is now mandatory that you receive a reduced annuity in order to provide the maximum survivor annuity for a current spouse (55 percent of your basic annuity). The only exception is if your spouse agrees in writing to accept a lesser survivor annuity or none at all.

Question 8. If I retire under Civil Service, do I have to provide a survivor annuity for my current spouse?

Answer: If you have five years of service with the Agency outside the United States, there will be an automatic reduction in your annuity to provide the maximum survivor annuity for your current spouse, just as if you were in CIARDS.

If you do not have this service, you are not required to provide a survivor benefit for your current spouse. But, if you do not provide the maximum survivor benefit, the Office of Personnel Management requires that your spouse be notified of this fact and sign an acknowledgment.

Question 9. If I retire under either CIARDS or Civil Service, have an ex-spouse, but am not currently married, do I have to provide a survivor annuity for my ex-spouse?

Answer: If your ex-spouse qualifies as a former spouse (see Question 4), he or she is automatically entitled to receive a survivor benefit and your annuity will be reduced accordingly. The only exception would be if a court order or spousal agreement provided otherwise.

Question 10. How is the survivor annuity divided if I have more than one former spouse?

Answer: Your former spouses will share the survivor annuity based upon the length of time they were married to you during your Federal service.

Question 11. How is the survivor annuity divided if I have a current spouse and one or more former spouses?

Answer: Your annuity would be reduced to provide a survivor annuity. Upon your death, the share owed to your former spouse(s) will be paid and whatever portion remains will go to your current spouse.

Example A: You have worked for the Federal Government for 30 years. During these 30 years you were married to your first spouse for 15 years, to your second spouse for 10 years, and to your current spouse for five years.

The survivor annuity, which is 55 percent of your annuity, would be divided as follows: your first spouse would receive  $\frac{1}{2}$  (~~15~~<sup>30</sup> divided by ~~30~~<sup>15</sup>); your second spouse would receive  $\frac{1}{3}$  (~~10~~<sup>30</sup> divided by ~~30~~<sup>10</sup>); and your current spouse would receive whatever remained ( $\frac{1}{6}$ ).

Example B: You retire after 30 years of Federal service. During that period you were married to your first spouse for 10 years, you were divorced and remained unmarried for 15 years, and then were married to your current spouse for five years. The survivor annuity would be divided as follows: your former spouse would receive  $1/3$  ( $10^{30}$  divided by  $30^{10}$ ); and your current spouse would receive whatever portion remains ( $2/3$  in this example).

Question 12. Is my retirement annuity reduced more if I have both a former spouse and a current spouse?

Answer No. The reduction will be the same regardless of how many beneficiaries share the survivor annuity.

Question 13. If my former spouse remarries, is there an entitlement to a survivor annuity?

Answer: If a former spouse remarries before reaching age 60 and before the survivor annuity commences, the right to an annuity is lost forever.

If your former spouse remarries before age 60 and was receiving a survivor annuity, this annuity ceases during the period of that marriage; but if that marriage is dissolved, the survivor annuity will be restored, subject to certain technical conditions.

If your former spouse remarries after age 60, the annuity will not cease.



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Retirement Annuity

Question 14. If I retire from the Agency, will my current spouse receive a separate share of my retirement annuity?

Answer: No.

Question 15. If I have a former spouse when I retire, does that former spouse receive a separate share of my retirement annuity?

Answer: Yes, unless your former spouse has waived this entitlement or a divorce court has expressly ordered otherwise.

Question 16. How much of my annuity would my former spouse receive?

Answer: Unless the spousal agreement or the court provides a greater or lesser amount, the law specifies that up to 50 percent of your annuity will go to your former spouse or spouses. The exact amount that each former spouse will receive depends upon the length of time that former spouse was married to you during your Federal service.

Example A. Your former spouse was married to you for the entire period of your Federal service; that spouse would receive a full 50 percent of your retirement annuity.

Example B. Your former spouse was married to you for 10 of the 30 years of your Federal service; he or she would receive  $\frac{1}{3}$  of 50 percent ( $\frac{20}{10}$  divided by  $\frac{10}{30}$ ).

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Divorce and Separation

Question 17. Can the rights provided by the law to a former spouse be allocated differently by a separation agreement or by a divorce decree?

Answer: Yes, under the law, a spouse or former spouse can agree to a change in the allocation of the benefits which are provided by law.

Question 18. If a former spouse seeks to obtain the annuity or survivor benefits provided by law, is there anything I can do to seek a reduction in such benefits?

Answer: Your attorney can make any appropriate arguments to the court as to what the divorce decree should include and the court may reduce the benefits provided by law.

Question 19. If a former spouse is not satisfied with the benefits provided by law, can he or she seek an increase?

Answer: In the same way that the employee can seek to have the court adjust benefits downward, a former spouse can make arguments to the court to adjust benefits upward.

Question 20. If I have additional questions, where can I get more information?

Answer: Call the Retirement Division, extension 2660.

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